

Senate Resolution 2

By: Senators Seabaugh of the 28th, Rogers of the 21st, Williams of the 19th and Chance of the 16th

A RESOLUTION

Proposing an amendment to the Constitution so as to authorize the reduction or elimination of local ad valorem taxation and replacement with a sales and use tax at any rate not to exceed 1 percent; to provide for procedures, conditions, and limitations; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article VII of the Constitution is amended by adding a new section to read as follows:

"SECTION V.SALES TAXATION FOR LOCAL PURPOSES

Paragraph I. *Local ad valorem reduction option.* (a) Any local taxing jurisdiction in this state consisting of:

(1) A county;

(2) The area of a consolidated government other than a municipality located therein;

(3) A county school district located in a county in which no independent school district is located; or

(4) A municipality

shall be authorized to levy, impose, and collect a local sales and use tax as provided in this Paragraph throughout the entirety of such local taxing jurisdiction.

(b) In the event one or more independent school districts are located wholly or partially within a county, the board of education of that county school district and the board of education of each such independent school district shall be authorized, upon the adoption of a concurrent resolution, to levy, impose, and collect a local sales and use tax as provided in this Paragraph throughout the entirety of such local taxing jurisdiction; and the joint areas of such school districts shall constitute the local taxing jurisdiction.

(c) In the event one or more municipalities are located wholly or partially within a county, the governing authority of that county and the governing authority of each such municipality shall be authorized, upon the adoption of a concurrent resolution, to levy, impose, and collect a local sales and use tax as provided in this Paragraph; and the joint areas of such county and municipality or municipalities shall constitute the local taxing jurisdiction.

(d) The purpose of such tax shall be to reduce or eliminate ad valorem taxation. The maximum rate of such tax shall be 1 percent, except as otherwise provided, and may be at any fractional rate less than 1 percent. Following approval of a stated maximum sales and use tax rate in the referendum:

(1) In the case of a county school district in a county in which no independent school district is located, the board of education of such school district shall be authorized to lower such rate or raise such rate subject to the stated maximum rate in order to maintain a sufficient amount of proceeds to offset the maximum net millage rate and debt without accumulating excess proceeds;

(2) In the case of a county containing a county school district and one or more independent school districts, the boards of education of such school districts shall, by concurrent resolution, be authorized to lower such rate or raise such rate subject to the stated maximum rate in order to maintain a sufficient amount of proceeds to offset the maximum net millage rate and debt without accumulating excess proceeds;

(3) In the case of a county containing one or more municipalities, the governing authorities of such county and municipalities shall, by concurrent resolution, be authorized to lower such rate or raise such rate subject to the stated maximum rate in order to maintain a sufficient amount of proceeds to offset the maximum net millage rate and debt without accumulating excess proceeds;

(4) In the case of a levy solely by a county, the maximum rate of such tax shall not exceed 0.5 percent and may be at any fractional rate less than 0.5 percent. The governing authority of such county shall be authorized to lower such rate or raise such rate subject to the stated maximum rate in order to maintain a sufficient amount of proceeds to offset the maximum net millage rate and debt without accumulating excess proceeds; or

(5) In the case of a levy solely by a municipality, the maximum rate of such tax shall not exceed 0.5 percent and may be at any fractional rate less than 0.5 percent. The governing authority of such municipality shall be authorized to lower such rate or raise such rate subject to the stated maximum rate in order to maintain a sufficient amount of proceeds to offset the maximum net millage rate and debt without accumulating excess proceeds.

61 (e) Such tax shall be imposed for an initial period not to exceed four years. Such tax
62 shall be in addition to any state-wide and local sales and use tax.

63 (f) Upon the adoption of an ordinance or resolution by the governing body of the local
64 taxing jurisdiction, concurrent resolution in the case of a county school district and one or
65 more independent school districts, or concurrent resolution in the case of a county and one
66 or more municipalities which specifies the maximum duration of the proposed tax, the
67 maximum rate of such tax, the maximum net millage rate for the duration of such tax, and
68 the date of the required referendum, a special election shall be conducted for posing the
69 question of imposing the tax. Such special election shall be called and conducted by the
70 appropriate election superintendent only on the date of the state-wide general primary or
71 the state-wide general election and in the manner authorized by general law for special
72 elections. The imposition, levy, and collection of the tax shall be conditioned upon
73 approval by a majority vote of the qualified electors residing within the limits of the local
74 taxing jurisdiction voting in a referendum thereon. The ballot question shall specify the
75 maximum duration of the proposed tax, the maximum rate of such tax, and the maximum
76 net millage rate for the duration of such tax.

77 (g) The authority provided under this Constitution to levy and collect ad valorem taxes
78 for the purpose of retiring existing indebtedness or repaying future indebtedness shall
79 continue.

80 (h) Except as otherwise provided in this Paragraph, a local sales and use tax imposed
81 pursuant to this Paragraph shall correspond to the state-wide sales and use tax imposed by
82 the revenue laws of this state, as now or hereafter amended. If approved in the referendum,
83 such local tax shall be imposed on the first day of January of the next succeeding year after
84 the date of the election at which the tax was approved by the voters.

85 (i) The sales and use tax imposed under this Paragraph shall not be subject to and shall
86 not count toward any general law limitation regarding the maximum amount of local sales
87 and use taxes which may be levied in any jurisdiction in this state.

88 (j) The sales and use tax imposed under this Paragraph shall not apply to the sale or use
89 of eligible food and beverages to the extent that such items are subject to state or local sales
90 and use tax pursuant to general law.

91 (k)(1) The sales and use tax imposed under this Paragraph shall not apply to:

92 (A) The production or generation of energy; or

93 (B) The sale or use of energy used in the manufacturing or processing of tangible
94 goods primarily for resale.

95 (2) The net maximum millage rate shall not apply to real property upon which any
96 facilities are located which produce or generate energy or which use energy in the

manufacturing or processing of tangible goods primarily for resale covered by this subparagraph.

(l) The proceeds of the sales and use tax imposed under this Paragraph by any county school district or independent school district shall count as a part of such district's total millage for purposes of any equalization grant formula provided by general law.

(m) The sales and use tax imposed under this Paragraph may be levied and collected without the necessity for further action by the General Assembly, but the General Assembly shall be authorized by general law to further define and implement such tax.

(n)(1) The proceeds derived from the sales and use tax imposed pursuant to this Paragraph shall be used solely for the purpose of reducing the millage rate against tangible property within the entirety of the local taxing jurisdiction in an amount equivalent to the amount of proceeds of the tax under this Paragraph collected for a 12 month period. In the case of a county, such reduction shall be county wide. In addition, the governing authority of a municipality which comprises a local taxing jurisdiction may enter into an intergovernmental agreement with the governing authority of a county or consolidated government in which it is located which comprises a local taxing jurisdiction to utilize a portion of such municipality's proceeds of such tax to reduce the county millage rate against tangible property within such municipality.

(2) In the case of a county school district and one or more independent school districts, the proceeds derived from the sales and use tax imposed pursuant to this Paragraph shall be used solely for the purpose of reducing the millage rate against tangible property within each of such school districts. The net proceeds of the tax shall be distributed between the county school district and the independent school districts, or portion thereof, located in such county according to the ratio the student enrollment in each school district, or portion thereof, bears to the total student enrollment of all school districts in the county. For purposes of this distribution, student enrollment shall be based on the latest full-time equivalent count prior to the referendum on imposing the tax.

(3) In the case of a county and one or more municipalities, the proceeds derived from the sales and use tax imposed pursuant to this Paragraph shall be used solely for the purpose of reducing the millage rate against tangible property within the entire county and each of such municipalities. The net proceeds of the tax shall be distributed between the county and the municipalities according to an intergovernmental agreement entered into by each of the governing authorities thereof.

(4) Such reduction shall be set in the form of a dollar-for-dollar credit and shall be reflected on the ad valorem tax bill of each taxpayer. Any excess proceeds remaining after eliminating 100 percent of property taxes of the local taxing jurisdiction shall be used to reduce or eliminate general obligation debt of the local taxing jurisdiction.

(5) As a condition precedent to the levy of the tax, if approved in the required referendum, the governing body or bodies receiving the proceeds shall establish a maximum net millage rate for general maintenance and operations against tangible property within such tax jurisdiction or jurisdictions. In the event a state of emergency has been declared by the President, the Governor, or otherwise necessitated due to a court order, the maximum net millage rate may be exceeded in the local taxing jurisdiction for emergency purposes or court order only upon approval of a resolution by a three-fifths' vote of the governing body of the local taxing jurisdiction and in the case of a county school district and one or more independent school districts, upon approval of a concurrent resolution by a three-fifths' vote of each board of education. The maximum net millage rate shall not apply to real property located in a tax allocation district, a community improvement district, or a city business improvement district.

(o) The sales and use tax imposed under this Paragraph may be reimposed upon approval by a majority vote of the qualified electors voting in a referendum thereon in the same manner generally as the tax was initially imposed except that any such reimposition may be for a period not to exceed eight years.

(p) The Department of Audits and Accounts shall conduct an annual audit of the collection and expenditure of the proceeds of such tax in each local taxing jurisdiction which imposes such tax. A copy of such audit shall be provided to the General Assembly and made available for public inspection at the office of the governing body of the local taxing jurisdiction to any person who so requests.

(q) The use of proceeds of the sales and use tax imposed under this Paragraph shall not be subject to redirection by any court order to any other purpose.

(r) Any such local taxing jurisdiction shall be authorized to cease the levy of the sales and use tax imposed under this Paragraph upon approval by a majority vote of the qualified electors residing within the limits of such local taxing jurisdiction voting in a referendum thereon. The sales and use tax imposed under this Paragraph and the maximum net millage rate shall continue until December 31 of the year in which such referendum is conducted and approved."

SECTION 2.

Article VIII, Section VI, Paragraph I of the Constitution is amended by revising subparagraph (a) as follows:

"(a) The Except as otherwise provided in Article VII, Section V, Paragraph I of this Constitution, the board of education of each school system shall annually certify to its fiscal authority or authorities a school tax not greater than 20 mills per dollar for the support and maintenance of education. Said fiscal authority or authorities shall annually

170 levy said tax upon the assessed value of all taxable property within the territory served by
171 said school system, provided that the levy made by an area board of education, which levy
172 shall not be greater than 20 mills per dollar, shall be in such amount and within such limits
173 as may be prescribed by local law applicable thereto."

174 **SECTION 3.**

175 The above proposed amendment to the Constitution shall be published and submitted as
176 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the
177 above proposed amendment shall have written or printed thereon the following:

178 "() YES Shall the Constitution of Georgia be amended so as to authorize the
179 reduction or elimination of local ad valorem taxation and replacement with
180 () NO a local sales and use tax upon approval in a local referendum?"

181 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."
182 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
183 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
184 become a part of the Constitution of this state.